

UTAH RADIATION CONTROL BOARD

**MINUTES OF THE UTAH RADIATION CONTROL BOARD MEETING, May 2, 2003,
Department of Environmental Quality (Bldg. #2), Conf. Room 101, 168 North 1950 West,
Salt Lake City, Utah.**

BOARD MEMBERS PRESENT

Karen S. Langley, M.S., Chair
William J. Sinclair, M.S.E.H., Executive Secretary
Kent J. Bradford, P.G.
Thomas K. Chism, M.S.
Royal I. Hansen, J.D.
Rod O. Julander, Ph.D.
Linda M. Kruse, M.S.
Dianne R. Nielson, Ph.D., Exec.Director, UDEQ
Gregory G. Oman, D.D.S., B.S.
Robert S. Pattison, B.Sc.
John W. Thomson, M.D.
Gene D. White, Commissioner

BOARD MEMBERS ABSENT/EXCUSED

Stephen T. Nelson, Ph.D., Vice Chair
Gary L. Edwards, M.S.

DRC STAFF/OTHER DEQ MEMBERS PRESENT

Edith Barker
William Craig
Julie Felice
Craig Jones
Mina Larson
Raymond Nelson
Fred Nelson, Attorney General's Office

PUBLIC

Kenneth L. Alkema, Envirocare of Utah, Inc.
Bradley Angel, Green Action for Health & Env. Justice
Yolanda Badback
Thelma Whiskers
Greg Copeland
Kim DeMille
Steve Erickson, CEP
Sarah Fields
Ron Hochstein, IUC (USA)
Cindy King, Sierra Club
William Love, Sierra Club

Dan Shrum, Envirocare of Utah, Inc.
Ken Sleight, Sierra Club

GREETINGS/MEETING CALLED TO ORDER

The Utah Radiation Control Board convened in the DEQ Building #2, Room 101, 168 North 1950 West, in Salt Lake City, Utah. The meeting was called to order at 2:07 p.m. by Karen Langley, Chair of the Board. She welcomed all members and public attending the meeting and asked those present to indicate on the sign-up sheet if there were agenda items they wanted to address. Those desiring to comment would be given a chance to address their concerns prior to the end of the Board meeting.

I. APPROVAL OF MINUTES (Board action item)

a. Approval of April 4, 2003 Minutes

Linda Kruse made a motion to approve the minutes of April 4, 2003, seconded by Tom Chism.

CARRIED AND APPROVED UNANIMOUSLY

II. RULES (Board action items)

a. Proposed changes to R313-25-1, "Purpose and Scope" and R313-25-3, "Siting Criteria and Pre-licensing Plan Approval for Commercial Radioactive Waste Disposal Facilities" – Final Approval

Bill Sinclair reported that changes to R313-25, including the siting criteria for commercial facilities, were filed with the Division of Administrative Rules after approval by the Board. A 30-day public comment period was held from April 1 - May 1, 2003, and was announced in The Salt Lake Tribune and Deseret News by public notice. The proposed rules were also made available on the DRC website. No written comments were received during the public comment period. Bill recommended that the Board give final approval to changes to R313-25-1, "Purpose and Scope" and R313-25-3, "Siting Criteria and Pre-licensing Plan Approval for Commercial Radioactive Waste Disposal Facilities," and set the effective date for the rules as May 9, 2003.

Gene White made a motion that the Board approve changes to rules R313-25-1 and R313-25-3, and set the effective date as of May 9, 2003. The motion was seconded by Linda Kruse.

CARRIED AND APPROVED UNANIMOUSLY

b. Proposed changes to R313-19-100, "Transportation" – Final Approval

Julie Felice reported that the proposed changes to R313-19-100 were filed with the Division of Administrative Rules after Board approval for a 30-day public comment beginning on April 1, 2003. No written comments were received during the comment period.

Julie Felice asked Board Members to refer to the Board packet for the version of the rule

that was approved to be filed with the Division of Administrative Rules. She reported that the 30-day comment period had been completed. The U.S. Nuclear Regulatory Commission (NRC) indicated in a letter that they had no comments. No written comments were received from the public. Julie asked the Board to give final approval to the proposed changes, and to make the effective date of changes to the rule as of May 9, 2003.

Kent Bradford made a motion that the Board give final approval to the proposed changes to R313-19-100 and to set the effective date of May 9, 2003. The motion was seconded by Rod Julander.

CARRIED AND APPROVED UNANIMOUSLY

c. Proposed changes to R313-26, "Generator Site Access" – to public comment (Board action item)

Edith Barker reported on some changes proposed to the Generator Site Access rules, R313-26, first promulgated in 2001. These changes include elimination of the definition of broker and replacement of the broker definition with terminology used in 10 CFR Part 20 relating to waste collector and waste processor. It is also proposed that the requirement for DRC to receive a copy of the manifest prior to the shipment be eliminated and be replaced with a requirement that a copy of the manifest can be requested "on demand."

She indicated that the Executive Secretary's recommendation was that the Board approve the changes to R313-26 to be filed with the Division of Administrative Rules and go out for a 30-day public comment period.

Rod Julander made the motion to send out changes to R313-26 for a 30-day public comment period. The motion was seconded by Tom Chism.

CARRIED AND APPROVED UNANIMOUSLY

III. RADIOACTIVE MATERIALS LICENSING/INSPECTION

No items

IV. X-RAY REGISTRATION/INSPECTION

No items

V. RADIOACTIVE WASTE DISPOSAL

a. Summary of meeting of Northwest Interstate Compact, April 9, 2003, Portland, OR

Bill Sinclair indicated that on April 9, 2003 he attended the regularly scheduled meeting of the Northwest Interstate Compact. An agenda and the minutes from the previous meeting were provided in the packet. In the supplemental packet was a copy of Bill's presentation to the Compact. The agenda shows that typical business was conducted at the meeting. There was also a presentation by the State of Washington indicating that the

Washington Legislature was considering transferring \$13.8 million dollars from the commercial low-level radioactive waste disposal fund closure fund to general funds. The State of Washington would repay the loan beginning in 2008 from excess funds in the Perpetual Care and Maintenance Account or General Funds. This will be sorted out in a special session of the Washington Legislature in late May or June 2003.

b. Cedar Mountain Environmental Inc. siting application review status

Bill Sinclair stated that on Friday, April 25, 2003, DRC issued the first round of interrogatories (questions) to Cedar Mountain regarding the siting application that was submitted on January 30, 2003. The siting review is being conducted by DRC contractor, URS Corporation. Cedar Mountain must now revise its application, based on the interrogatories, and resubmit it for additional review.

VI. URANIUM MILL TAILINGS UPDATE (Board information items)

a. Moab Millsite update

Bill Sinclair updated the Board on this item from the following summary:

'5/02/03

Uranium Mill Tailing Activities Since – Since 3/7/03

Date	Activity/Description
Moab Uranium Mill Tailings Project, Near Moab, Utah	
<i>Past Activities</i>	
March 27, 2003	<p>DEQ recommends a budget for FY2004 to Utah Congressional Delegation</p> <p>\$2 Million = President's 2004 Budget Proposal (site maintenance, completion of EIS process)</p> <p>\$3 Million = funding for: 1) Operation and Maintenance of the groundwater pump and treat system, 2) Interim site stabilization, 3) Initiate design for remediation, including infrastructure for remediation.</p> <p>\$1 Million = funding for completion of groundwater studies to examine extent of contamination that has traveled under the Colorado River.</p> <p>_____</p> <p>\$6 Million = Total</p>
April 9, 2003	DEQ responds to a March 20, 2003 DOE inquiry regarding possibility of transferring State-owned lands near Green River Title I site to DOE for disposal of Moab Tailings.
April 11, 2003	DOE-GJO provided a draft Cooperating Agency Agreement (CAA) for State review. Discussions over CAA content were recently completed and the agreement will soon be signed. DEQ will take lead for State as a Cooperating Agency in the upcoming DOE EIS process for the Moab Tailings. Other state agencies will include: Department of Transportation, Division of Wildlife Resources, State Trust Lands Board, and State Historical Preservation Office.
April 15, 2003	<p>DOE issued a press release to announce that two (2) potential disposal sites for the Moab Tailings have been eliminated from further consideration, including:</p> <p>1) East Carbon Development Corporation (ECDC) Option - site near East Carbon, Utah. DOE dropped this site from further consideration after a request from ECDC.</p> <p>2) Green River Option – the Umetco / Nielson Trucking proposal to consolidate the Moab Tailings with the Green River Title I tailings was also dropped from further DOE consideration</p>
Future Activities	
May 29, 2003	Moab Tailings Stakeholders Meeting – 9:00 am in Grand County Council Chambers, 125 East Center Street, Moab, Utah. Draft agenda soon to be posted on DRC website.
June 5, 2003	Quarterly DOE – Cooperating Agency meeting in Moab. Afternoon meeting with time and location to be announced later by DOE-GJO.
June 17, 2003	<p>Quarterly DOE public meetings to be held in Southeastern, Utah. Times and locations to be announced later by DOE-GJO.</p> <ul style="list-style-type: none"> - Blanding – Tuesday, June 17 (evening) - White Mesa Reservation – Wednesday, June 18 (morning) - Moab – Wednesday, June 18 (evening)

b. Citizen Presentation: Concerns regarding the White Mesa Mill

The following is a summary of the comments that the Public addressed before the Board :

Yolanda Badback, Tribal Member of the Community of White Mesa:

Yolanda Badback commented that she was one of about 200 people living near the White Mesa Mill site and that she lives about four miles from the White Mesa Mill site and is raising her family there. Yolanda said she did not like the White Mesa Mill site in that area.

She said that her major complaint is that ancestors are buried in the area of the White Mesa Mill and the herbs that they use in their traditions are also located on or nearby the Mill. Yolanda felt that the main reason that she was against activities at the White Mesa Mill is that the ground is considered sacred because ancestors have been buried there. She also indicated that Native Americans have traditions and cultures they would like to preserve, such as the use of herbs, and she felt obligated to come before the Board and express her feelings. Yolanda also distributed a letter to Board members from Patrick McDermott, Chairman of the Community of Bluff, Utah, which was addressed to Joel Berwick, Moab Project Manager, Department of Energy that expressed concerns about the use of the White Mesa Mill as a possible disposal site for the Moab Millsite tailings.

Thelma Whiskers, Tribal Member of the Community of White Mesa

Thelma Whiskers commented that she has been coming before the Board to express her feelings and speak against the White Mesa Mill for years now. She indicated that several members of her family have also been fighting against White Mesa Mill for years. Pearl Wells, who used to come with her and speak against the Mill, has passed away. She indicated that her 90-year old Grandmother, Stella, had also come before the Board to express her feelings against the White Mesa Mill several years ago, but that she was unable to accompany her this time because of other family matters.

Ms. Whiskers agreed with Yolanda that the reason they were against the White Mesa Mill was because of the sacred burial grounds. She also indicated that on a windy day there is a smell that comes from the Mill. Thelma also indicated that they used to go to the area by White Mesa Mill to gather herbs. The herbs are now all buried and they can no longer get the herbs to make Indian tea as in the past. Thelma indicated she would continue fighting against the Mill with or without any help from the Board.

Bradley Angel, Citizen of Grand County and Green Action for Health and Environmental Justice

Bradley Angel indicated that he was there to speaking from his home in Grand County and to give support his Southern Utah neighbors. He indicated that he was also at the meeting as Executive Director of an organization called Green Action for Health and Environmental Justice. Bradley indicated that his organization works with rural, urban, desert and native communities in the areas of Utah, Nevada, Arizona, and California on environmental and environmental justice issues.

Bradley referred to a packet that was given to Board members containing excerpts to read and photos to evaluate. He stated that these were archeological studies done for the government for the siting of the White Mesa Mill. He expressed his opinion that the White Mesa area was an archeological area and the Mill should never have been constructed, and stated that it is the most horrible desecration in history.

He indicated that certain Native Americans believe that any approval of further operations at IUC (USA), by State and Federal agencies, is a violation of the civil rights of tribal members in the area. He indicated again that the concerns addressed the potential health risks of the nearby Mill to the White Mesa Community, including possible groundwater contamination and desecration of burial sites. He encouraged the

Board to review the information and take appropriate action.

William Love, Grand Canyon Chapter of Sierra Club

William Love stated that three months ago he came before the Board to discuss hazardous waste issues with alternate feed materials and provide a handout with an example of some material from the Maywood, New Jersey site. He then discussed the guidance that allows alternate feed materials to contain characteristic hazardous waste and provided the Board information regarding characteristic hazardous waste.

He also discussed the Board Position Statement issued April 9, 1999, "Processing and Disposal of Alternate Feed Materials by Utah Uranium Mills" and complimented the Board on that stance. He questioned whether or not the position statement needed to be updated to reflect the current status and made some recommendations for changes to the position statement.

Ken Sleight, Grand Canyon Chapter of the Sierra Club

Ken Sleight provided some photographs to the Board that he believed indicated a previous concern he had brought before the Board involving windblown material. He indicated that the Board should address this issue and stated that he had sent a letter to the Governor voicing his concerns but had never received a reply. Bill Sinclair indicated that he had responded to Ken's electronic mail to the Governor and provided Board members with a copy of the response.

Ken also expressed concern about the original Environmental Impact Statement for the White Mesa Mill, stating that it had never been revised to address alternate feed amendment requests.

Sarah Fields, Grand Canyon Chapter of the Sierra Club

Sarah Fields provided a handout to all the Board Members, then proceeded to briefly go over the items of concern in the letter (see attached letter).

She then indicated that her concerns were with the process used by the State in developing the Elements paper and incorporating this paper into the Final Agreement State Application, which she believed was not a public process.

Sarah indicated that the State did not involve the interested tribal entities, community groups, and individuals in the development or review of the "Elements Paper." The majority of the people that would be directly impacted by the "Policy Statement" were excluded from the stakeholder process used to develop that policy.

In conclusion, Sarah requested that the Board vote to open up the question of the activities other than milling conventional mined uranium ores at uranium mills (including the processing alternate feed materials) to a public process involving a public hearing at

the White Mesa, the community nearest to the only uranium mill in Utah.

Ron Hochstein, President of IUC (USA), White Mesa Mill

Ron Hochstein responded to the issues raised by the citizens testifying at the Board meeting regarding ongoing archeological studies by the Department of Energy, listed waste, any potential leakage of the tailings cells, the Environmental Impact Statement process and subsequent environmental assessments, State involvement in review of White Mesa Mill activities, employment of Native Americans at the Mill, involvement with the White Mesa Ute community, and availability of information regarding the Mill to the public.

Questions by Board Members:

Rod Julander asked if anyone else besides IUC (USA) tests the groundwater and who verifies the data. Ron Hochstein indicated the DRC does annual split sampling of groundwater at the White Mesa Mill. Rod then asked if air samples were also split-sampled. Ron indicated that the Ute Mountain Ute environmental staff are invited when the samplers are calibrated and they are welcome to take a split sample.

Rod Julander asked Ron Hochstein about the information presented by Ken Sleight to the Board. Ron Hochstein indicated that he believed the dust is coming from areas that have been overgrazed with a large amount of dust coming from the area west of the millsite. Rod Julander inquired as to how the air monitoring particulate data can be trusted since IUC collects and reports the data without verification sampling by outside agencies. Ron Hochstein indicated that as CEO of IUC (USA), he has no interest in falsifying data. He indicated he has a responsibility to the public, to the Board and regulators, and to his family not to falsify data.

VII. OTHER DEPARTMENT ISSUES (Board information item)

a. Hazardous Waste Regulation and Tax Policy Legislative Task Force

Bill Sinclair informed the Board that the first scheduled meeting of the Hazardous Waste Regulation and Tax Policy Legislative Task Force will be held at the Capitol on May 20, 2003 from 8:00 a.m. to noon. Although the agenda has yet to be posted, it is understood that the task force members will be presented with some background information. They will also hear from interested parties. The Department has been asked to come and provide some remarks at this meeting. He indicated the Board packet included a list of the task force members (all legislators).

VII. PUBLIC COMMENT

Members of the public that had an interest in commenting on the White Mesa Mill were provided the opportunity during the discussion of Item VI.b.

IX. OTHER ISSUES

- a. Next Board Meeting – June 6, 2003, Department of Environmental Quality (Bldg #2), 168 North 1950 West, Conference Room 101, Salt Lake City, Utah 2:00 – 4:00

P.M.

The meeting adjourned at 3:35 p.m.